

12-904

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**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BOARD OF PATENT APPEALS AND INTERFERENCES**

In re Application of: **Leach**Serial No.: **09/591,258**Filing Date: **June 9, 2000**For: **Method and System for Monitoring
and Transmitting Utility Status via
Universal Communications Interface**Confirmation No.: **2469**Art Unit: **2181**Examiner: **Lee, C.**

RESPONSE TO NOTICE OF NON-COMPLIANT APPEAL BRIEF

Mail Stop Appeal Brief - Patents
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sirs:

Responsive to the Notification of Non-Compliant Appeal Brief mailed November 24, 2004, a copy of which is attached hereto, Applicant herewith submits a complete new Appeal Brief, in triplicate, in compliance with 37 CFR 41.37. This response is timely as it is filed within one month from the mailing date of the non-compliant appeal brief notification.

No fees are believed due; however, the Commissioner is hereby authorized to charge any fees due to Deposit Account No. 19-5029.

Respectfully submitted,

William R. Silverio

AO 1236513.1

I hereby certify that this paper or fee is being deposited with the United States Postal Service "Express Mail Post Office to Addressee" (EL 973736895 US) service under 37 CFR 1.10 on the date indicated above and is addressed to: Mail Stop Appeal Brief - Patents, Commissioner for Patents, Alexandria, VA 22313-1450 this 8th day of December 2004.

Beverly Hopkins

AO 1236513.1



**Notification of Non-Compliant Appeal Brief
(37 CFR 41.37)**

Application No.

09/591,258

Applicant(s)

LEACH, MARK

Examiner

Christopher E. Lee

Art Unit

2112

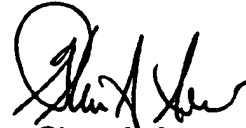
--The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

The Appeal Brief filed on 08 October 2004 is defective for failure to comply with one or more provisions of 37 CFR 41.37.

To avoid dismissal of the appeal, applicant must file a complete new brief in compliance with 37 CFR 41.37 within **ONE MONTH or THIRTY DAYS** from the mailing date of this Notification, whichever is longer. **EXTENSIONS OF THIS TIME PERIOD MAY BE GRANTED UNDER 37 CFR 1.136.**

1. ☒ The brief does not contain the items required under 37 CFR 41.37(c), or the items are not under the proper heading or in the proper order.
2. ☐ The brief does not contain a statement of the status of all claims, (e.g., rejected, allowed or confirmed, withdrawn, objected to, canceled), or does not identify the appealed claims (37 CFR 41.37(c)(1)(iii)).
3. ☐ At least one amendment has been filed subsequent to the final rejection, and the brief does not contain a statement of the status of each such amendment (37 CFR 41.37(c)(1)(iv)).
4. ☐ (a) The brief does not contain a concise explanation of the subject matter defined in each of the independent claims involved in the appeal, referring to the specification by page and line number and to the drawings, if any, by reference characters; and/or (b) the brief fails to: (1) identify, for each independent claim involved in the appeal and for each dependent claim argued separately, every means plus function and step plus function under 35 U.S.C. 112, sixth paragraph, and/or (2) set forth the structure, material, or acts described in the specification as corresponding to each claimed function with reference to the specification by page and line number, and to the drawings, if any, by reference characters (37 CFR 41.37(c)(1)(v)).
5. ☐ The brief does not contain a concise statement of each ground of rejection presented for review (37 CFR 41.37(c)(1)(vi)).
6. ☐ The brief does not present an argument under a separate heading for each ground of rejection on appeal (37 CFR 41.37(c)(1)(vii)).
7. ☐ The brief does not contain a correct copy of the appealed claims as an appendix thereto (37 CFR 41.37(c)(1)(viii)).
8. ☐ The brief does not contain copies of the evidence submitted under 37 CFR 1.130, 1.131, or 1.132 or of any other evidence entered by the examiner and relied upon by appellant in the appeal, along with a statement setting forth where in the record that evidence was entered by the examiner, as an appendix thereto (37 CFR 41.37(c)(1)(ix)).
9. ☐ The brief does not contain copies of the decisions rendered by a court or the Board in the proceeding identified in the Related Appeals and Interferences section of the brief as an appendix thereto (37 CFR 41.37(c)(1)(x)).
10. ☒ Other (including any explanation in support of the above items):

See Continuation Sheet (PTOL-462)


Glenn A. Auve
Primary Patent Examiner
Technology Center 2100

cel/ 

There are two defective items in the filed appeal brief.

- (1) The appeal brief does not identify all real parties in interest under the heading "REAL PARTY IN INTEREST" (See appeal brief, on page 2, lines 1-6 REAL PARTY IN INTEREST). However, Rule 37 CFR 1.192 (c)(1) clearly states that the appeal brief shall contain "a statement identifying the real party in interest, if the party named in the caption of the brief is not the real party in interest." under the heading of "Real party in interest" if the brief is filed by a registered practitioner as an appellant's representative. In fact, the real party "AMRON technologies, Inc." in the record at reel 014699/030 has not been mentioned under the heading "Real party in interest".
- (2) The appeal brief does not correctly raise the issue, the grouping of claims, and the argument under the headings "ISSUES", "GROUPING OF CLAIMS", and "ARGUMENT", respectively. In fact, the ground of rejection of claim 13 in the Final Office Action was not unpatenable under 35 U.S.C. 103(a) as being obvious in light of Thornborough in view of Schnell and Segur and further in view of Cosentino et al., but under 35 U.S.C. 103(a) as being obvious in light of Thornborough in view of Schnell and Segur (See Paragraph 3 of the Final Office action mailed on 13th of May 2004)